



# California State Board of Education Policy

POLICY #
<b>78-01</b>
DATE
<b>January 1978</b>

## SUBJECT

**Activities that are Inconsistent, Incompatible, or in Conflict with Duties of a Member of an Educational Policy Advisory Commission or a Committee, Task Force, or Panel Thereof**

## REFERENCES

Education Code Section 33031.

## HISTORICAL NOTES

Originally adopted July 1973. Amended March 1974, December 1974, October 1976, November 1977, and January 1978.

The State Board of Education (State Board) is empowered to adopt rules and regulations for its own government and for the government of its appointees and employees.

In order to protect the integrity and impartiality of the advice it receives and the decisions it makes, the State Board has determined that the following employment, activity, or enterprise on the part of any member of an educational policy advisory commission established by law (or any committee, task force, or panel advisory to such a commission) to be inconsistent, incompatible, or in conflict with the duties of such membership.

### 1. INCOMPATIBLE ACTIVITIES

- a. Using the prestige or influence of membership for a member's private gain or advantage or the private gain or advantage of another.
- b. Using the facilities, equipment, or supplies of the state for private gain or advantage.
- c. Using confidential information acquired by virtue of such membership for private gain or advantage.
- d. Accepting or receiving any gift, money, gratuity, emolument, meal, beverage, entertainment, favor, or other valuable thing, from any person, firm, or entity that does or is likely to do business with or submit materials or proposals to the commission of which the individual is a member or to which he or she renders advice.
- e. Appearing at a legislative hearing or before any administrative or judicial agency or tribunal purporting to represent the State Board, commission, committee, task force, or panel without prior approval in writing from the president of the State Board.

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California State Board of Education

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- f. Discussing any proposal or material that has been or is likely to be submitted to the commission of which the individual is a member or to which he or she renders advice with the person, firm, or entity submitting the proposal or material (or their representative), except in a scheduled meeting authorized by the chair of the commission, committee, task force, or panel, provided, however, that nothing contained herein shall restrict the member in the performance of any other employment, occupation, or profession.
2. CONFLICTS OF INTEREST
- a. A member of an educational policy advisory commission established by law (or any committee, task force, or panel advisory to such a commission) shall not be (i) financially interested in any matter subject to review or approval by the commission, committee, task force, or panel of which he or she is a member, including any employment or (ii) have or negotiate any other contractual relationship with any person, firm, or organization submitting material to or otherwise doing business with the commission, committee, task force, or panel of which he or she is a member. As used in this paragraph, a prohibited financial interest or other contractual relationship includes:
- (1) The receipt of payments or other compensation from the person, firm, or organization.
  - (2) An interest as contributor, author, editor, or consultant of any textbook or other material submitted to the commission of which the individual is a member or to which he or she renders advice. [Applies to persons serving on a commission, committee, task force, or panel on or after February 1, 1975.]
  - (3) The receipt of payments described in sub-paragraph (1) from, or a contractual relationship with a person, firm, or organization (except an institution of higher education) that is a subsidiary of, controls, or is controlled by an entity that controls any firm or organization submitting material to or otherwise doing business with the commission.
- b. An individual shall not be deemed to be interested in a matter within the meaning of paragraph (a) of this subdivision if he or she has only a remote interest in the matter, if the fact of that interest is disclosed in open meeting to the commission of which he or she is a member or an advisor and noted in its official minutes and is also disclosed to the State Board, and if, thereafter, the commission or its advisory committee, task force, or panel authorizes, approves, or recommends the matter in good faith by a vote (or other agreement) of its membership sufficient for the purpose without the participation of the member (who has the remote



interest) in the evaluation or discussion of the matter and (as applicable) without counting the vote of the member (who has the remote interest).

- c. As used in paragraph (b) of this subdivision, a “remote interest” is any of the following:
- (1) A non-salaried officer of a nonprofit organization.
  - (2) An employee or agent of a public entity or institution of higher education, provided that institution has ten (10) or more other employees or agents and provided the individual has been an employee or agent of the institution for at least three (3) years prior to his or her initial acceptance of appointment to the commission, committee, task force, or panel.
  - (3) Service as an editor, consultant, contributor, or author of a textbook or other materials that are not under consideration or review by the commission, when (i) the service was performed prior to membership on the commission, committee, task force, or panel and (ii) the individual does not retain a present or future right to whatever compensation or other payments would accrue while he or she is a member of the commission, committee, task force, or panel.
- d. An individual who was formerly an editor, consultant, contributor, or author of textbooks or other materials (whether or not the textbooks or other materials are under consideration or review by the commission) shall not be deemed to be interested in a matter within the meaning of paragraph (a) of this subdivision provided he or she:
- (1) For at least two years prior to membership on the commission, committee, task force, or panel, has not had any contractual relationship or received any compensation for service (e.g., as an editor, consultant, contributor, or author).
  - (2) For at least two years prior to membership on the commission, committee, task force, or panel, has received a total payment per year for his or her service (i.e., as an editor, consultant, contributor, or author) that, in the State Board’s judgment, is no more than minimal.
  - (3) Does not retain a present or future right to whatever compensation or other payments would accrue for his or her service (i.e., as an editor, consultant, contributor, or author) during the time he or she is a member of the commission, committee, task force, or panel.